

Department of the Interior  
 Department of Justice  
 Department of Labor  
 Department of State  
 Department of Transportation (The national security consideration currently applicable to the Department of Defense under the GATT Government Procurement Code is equally applicable under this Agreement to the Coast Guard)  
 Department of the Treasury  
 United States Agency for International Development  
 General Services Administration (other than Federal Supply Groups 51 and 52 and Federal Supply Class 7340)  
 National Aeronautics and Space Administration  
 Department of Veterans Affairs  
 Environmental Protection Agency  
 United States Information Agency  
 National Science Foundation  
 Panama Canal Commission  
 Executive Office of the President  
 Farm Credit Administration  
 National Credit Union Administration  
 Merit Systems Protection Board  
 ACTION Agency  
 United States Arms Control and Disarmament Agency  
 Office of Thrift Supervision  
 Federal Housing Finance Board  
 National Labor Relations Board  
 National Mediation Board  
 Railroad Retirement Board  
 American Battle Monuments Commission  
 Federal Communications Commission  
 Federal Trade Commission  
 Interstate Commerce Commission  
 Securities and Exchange Commission  
 Office of Personnel Management  
 United States International Trade Commission  
 Export-Import Bank of the United States  
 Federal Mediation and Conciliation Service  
 Selective Service System  
 Smithsonian Institution  
 Federal Deposit Insurance Corporation  
 Consumer Product Safety Commission  
 Equal Employment Opportunity Commission  
 Federal Maritime Commission  
 National Transportation Safety Board  
 Nuclear Regulatory Commission  
 Overseas Private Investment Corporation  
 Administrative Conference of the United States  
 Board for International Broadcasting  
 Commission on Civil Rights  
 Commodity Futures Trading Commission  
 The Peace Corps  
 National Archives and Records Administration

## ANNEX 1B

The Power Marketing Administrations of the Department of Energy  
 Tennessee Valley Authority

## ANNEX 2

Thresholds Applicable to Agencies listed in Annex 1A  
 Goods contracts—130,000 SDRs (currently \$176,000)  
 Construction contracts—\$6,500,000  
 Thresholds Applicable to Agencies listed in Annex 1B  
 Goods contracts—\$450,000  
 Construction contracts—\$6,500,000

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2512, 2514, 2515 of this title.

## § 2512. Authority to encourage reciprocal competitive procurement practices

### (a) Authority to bar procurement from non-designated countries

#### (1) In general

Subject to paragraph (2), the President, in order to encourage additional countries to be-

come parties to the Agreement and to provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products—

(A) shall, with respect to procurement covered by the Agreement, prohibit the procurement, after the date on which any waiver under section 2511(a) of this title first takes effect, of products—

(i) which are products of a foreign country or instrumentality which is not designated pursuant to section 2511(b) of this title, and

(ii) which would otherwise be eligible products; and

(B) may, with respect to procurement covered by the Agreement, take such other actions within the President's authority as the President deems necessary.

### (2) Exception

Paragraph (1) shall not apply in the case of procurements for which—

(A) there are no offers of products or services of the United States or of eligible products; or

(B) the offers of products or services of the United States or of eligible products are insufficient to fulfill the requirements of the United States Government.

### (b) Deferrals and waivers

Notwithstanding subsection (a) of this section, but in furtherance of the objective of encouraging countries to become parties to the Agreement and provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products, the President may—

(1) waive the prohibition required by subsection (a)(1) of this section on procurement of products of a foreign country or instrumentality which has not yet become a party to the Agreement but—

(A) has agreed to apply transparent and competitive procedures to its government procurement equivalent to those in the Agreement, and

(B) maintains and enforces effective prohibitions on bribery and other corrupt practices in connection with its government procurement;

(2) authorize agency heads to waive, subject to interagency review and general policy guidance by the organization established under section 1872(a) of this title, such prohibition on a case-by-case basis when in the national interest; and

(3) authorize the Secretary of Defense to waive, subject to interagency review and policy guidance by the organization established under section 1872(a) of this title, such prohibition for products of any country or instrumentality which enters into a reciprocal procurement agreement with the Department of Defense.

Before exercising the waiver authority under paragraph (1), the President shall consult with the appropriate private sector advisory commit-

tees established under section 2155 of this title and with the appropriate committees of the Congress.

**(c) Report on impact of restrictions**

**(1) Impact on the economy**

On or before July 1, 1981, the President shall report to the Committee on Ways and Means and the Committee on Government Operations of the House of Representatives and to the Committee on Finance and the Committee on Governmental Affairs of the Senate on the effects on the United States economy (including effects on employment, production, competition, costs and prices, technological development, export trade, balance of payments, inflation, and the Federal budget) of the refusal of developed countries to allow the Agreement to cover the entities of the governments of such countries which are the principal purchasers of goods and equipment in appropriate product sectors.

**(2) Recommendations for attaining reciprocity**

The report required by paragraph (1) shall include an evaluation of alternative means to obtain equity and reciprocity in such product sectors, including (A) prohibiting the procurement of products of such countries by United States entities not covered by the Agreement, and (B) modifying the application of title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), commonly referred to as the Buy American Act. The report shall include an analysis of the effect of such alternative means on the United States economy (including effects on employment, production, competition, costs and prices, technological development, export trade, balance of payments, inflation, and the Federal budget), and on successful negotiations on the expansion of the coverage of the Agreement pursuant to section 2514(a) and (b) of this title, other trade negotiating objectives, the relationship of the Federal Government to State and local governments, and such other factors as the President deems appropriate.

**(3) Consultation**

In the preparation of the report required by paragraph (1) and the evaluation and analysis required by paragraph (2), the President shall consult with representatives of the public, industry, and labor, and make available pertinent, nonconfidential information obtained in the course of such preparation to the advisory committees established pursuant to section 2155 of this title.

**(d) Proposed action**

**(1) Presidential report**

On or before October 1, 1981, the President shall prepare and transmit to the congressional committees referred to in subsection (c)(1) of this section a report which describes the actions he deems appropriate to establish reciprocity with major industrialized countries in the area of Government procurement.

**(2) Procedure**

**(A) Presidential determination**

If the President determines that any changes in existing law or new statutory au-

thority are required to authorize or to implement any action proposed in the report submitted under paragraph (1), he shall, on or after January 1, 1982, submit to the Congress a bill to accomplish such changes or provide such new statutory authority. Prior to submitting such a bill, the President shall consult with the appropriate committees of the Congress having jurisdiction over legislation involving subject matters which would be affected by such action, and shall submit to such committees a proposed draft of such bill.

**(B) Congressional consideration**

The appropriate committee of each House of the Congress shall give a bill submitted pursuant to subparagraph (A) prompt consideration and shall make its best efforts to take final committee action on such bill in an expeditious manner.

(Pub. L. 96-39, title III, §302, July 26, 1979, 93 Stat. 236; Pub. L. 103-182, title III, §381(b), Dec. 8, 1993, 107 Stat. 2129; Pub. L. 103-465, title III, §343(a), (b), Dec. 8, 1994, 108 Stat. 4954, 4955.)

REFERENCES IN TEXT

Title III of the Act of March 3, 1933, referred to in subsec. (c)(2), is act Mar. 3, 1933, ch. 212, title III, 47 Stat. 1520, as amended, known as the Buy American Act, which enacted sections 10a, 10b, 10b-1, and 10c of Title 41, Public Contracts, and enacted provisions set out as notes under 10c of Title 41. For complete classification of this Act to the Code, see Short Title note set out under section 10a of Title 41 and Tables.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-465, §343(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “With respect to procurement covered by the Agreement, the President, in order to encourage additional countries to become parties to the Agreement and to provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products—

“(1) shall prohibit the procurement, after the date on which any waiver under section 2511(a) of this title first takes effect, of products (A) which are products of a foreign country or instrumentality which is not designated pursuant to section 2511(b) of this title, and (B) which are products covered under the Agreement for procurement by the United States; and

“(2) may take such other actions within his authority as he deems necessary.”

Subsec. (b). Pub. L. 103-465, §343(b)(2), inserted concluding provisions.

Subsec. (b)(1). Pub. L. 103-465, §343(b)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “delay, for a period not to exceed two years, the prohibition of procurement, required pursuant to subsection (a)(1) of this section, of products of a foreign country or instrumentality which is not designated pursuant to section 2511(b) of this title, except that no such delay shall be granted with respect to the procurement of products of any major industrial country;”.

1993—Subsec. (a)(1). Pub. L. 103-182 substituted “are products covered under the Agreement for procurement by the United States” for “would otherwise be eligible products”.

CHANGE OF NAME

Committee on Government Operations of House of Representatives treated as referring to Committee on Government Reform and Oversight of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note under section 21 of Title 2, The Congress.

## EFFECTIVE DATE OF 1994 AMENDMENT

Section 344 of title III of Pub. L. 103-465 provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle [subtitle E (§§ 341-344 of title III of Pub. L. 103-465, amending this section and sections 2513 to 2515, 2517, and 2518 of this title, repealing section 2516 of this title, and amending provisions set out as a note under section 903 of Title 7, Agriculture] take effect on the date on which the Agreement on Government Procurement referred to in section 101(d)(17) [19 U.S.C. 3511(d)(17)] enters into force with respect to the United States [Jan. 1, 1995].

“(b) SECTION 342(g).—The amendments made by section 342(g) [amending provisions set out as a note under section 903 of Title 7] take effect on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995].”

## EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 381(e) of Pub. L. 103-182, set out as a note under section 2511 of this title.

## DELEGATION OF FUNCTIONS

Functions of President under this section delegated to United States Trade Representative, with authority delegated to Secretary of Defense to waive the prohibitions contained in subsec. (b)(3) of this section, see section 1-2 of Ex. Ord. No. 12260, Dec. 31, 1980, 46 F.R. 1653, set out as a note under section 2511 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2514, 2515 of this title; title 41 section 10b-1.

### § 2513. Waiver of discriminatory purchasing requirements with respect to purchases of civil aircraft

The President may waive the application of the provisions of title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.) popularly referred to as the Buy American Act, in the case of any procurement of civil aircraft and related articles of a country or instrumentality which is a party to the Agreement on Trade in Civil Aircraft referred to in section 2503(c) of this title and approved under section 2503(a) of this title. The President may modify or withdraw any waiver granted pursuant to this section.

(Pub. L. 96-39, title III, § 303, July 26, 1979, 93 Stat. 238; Pub. L. 103-465, title III, § 342(a), Dec. 8, 1994, 108 Stat. 4953.)

## REFERENCES IN TEXT

Title III of the Act of March 3, 1933, referred to in text, is act Mar. 3, 1933, ch. 212, title III, 47 Stat. 1520, as amended, known as the Buy American Act, which enacted sections 10a, 10b, 10b-1, and 10c of Title 41, Public Contracts, and enacted provisions set out as notes under 10c of Title 41. For complete classification of this Act to the Code, see Short Title note set out under section 10a of Title 41 and Tables.

## AMENDMENTS

1994—Pub. L. 103-465 inserted “referred to in section 2503(c) of this title and approved under section 2503(a) of this title” after “Civil Aircraft”.

## EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date on which the Agreement on Government Procurement, referred to in section 3511(d)(17) of this title, enters into

force with respect to the United States [Jan. 1, 1995], see section 344(a) of Pub. L. 103-465, set out as a note under section 2512 of this title.

## EFFECTIVE DATE

Section effective July 26, 1979, but authority of President to grant waivers under this section effective on Jan. 1, 1980, see section 309 of Pub. L. 96-39, set out as a note under section 2511 of this title.

## DELEGATION OF FUNCTIONS

Functions of President under this section delegated to United States Trade Representative, see section 1-103(b) of Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 990, set out as a note under section 2171 of this title.

### § 2514. Expansion of the coverage of the Agreement

#### (a) Overall negotiating objective

The President shall seek in the renegotiations provided for in article XXIV(7),<sup>1</sup> of the Agreement more open and equitable market access abroad, and the harmonization, reduction, or elimination of devices which distort trade or commerce related to Government procurement, with the overall goal of maximizing the economic benefit to the United States through maintaining and enlarging foreign markets for products of United States agriculture, industry, mining, and commerce, the development of fair and equitable market opportunities, and open and nondiscriminatory world trade. In carrying out the provisions of this subsection, the President shall consider the assessment made in the report required under section 2516(a)<sup>2</sup> of this title.

#### (b) Sector negotiating objectives

The President shall seek, consistent with the overall objective set forth in subsection (a) of this section and to the maximum extent feasible, with respect to appropriate product sectors, competitive opportunities for the export of United States products to the developed countries of the world equivalent to the competitive opportunities afforded by the United States, taking into account all barriers to, and other distortions of, international trade affecting that sector.

#### (c) Independent verification objective

The President shall seek to establish in the renegotiation provided for in article XXIV(7),<sup>1</sup> of the Agreement a system for independent verification of information provided by parties to the Agreement to the Committee on Government Procurement pursuant to article XIX(5),<sup>1</sup> of the Agreement.

#### (d) Reports on negotiations

##### (1) Report in the event of inadequate progress

If, during the renegotiations of the Agreement, the President at any time determines that the renegotiations are not progressing satisfactorily and are not likely to result, within twelve months of the commencement thereof, in an expansion of the Agreement to cover purchases by the entities of the governments of developed countries which are the

<sup>1</sup> So in original. The comma probably should not appear.

<sup>2</sup> See References in Text note below.